

the time and place in which said game is being conducted. (Ord. No. 598, § 1, 2-28-77; Ord. No. 732, 4-9-85)

Sec. 4-72. Value of prizes.

The total value of prizes, including cash, awarded during the conduct of any one bingo game shall not exceed two hundred fifty dollars (\$250.00). (Ord. No. 598, § 1, 2-28-77)

Sec. 4-73. Operation generally.

A bingo game shall be operated and staffed only by members of the nonprofit charitable organization or senior citizen group which organized it. Such members shall not receive a profit, wage, commission, salary or compensation of any kind in consideration for conducting or helping to conduct any bingo game. It is a misdemeanor for any person to receive a profit, wage, commission, salary or other compensation from any bingo game herein authorized, punishable by a fine not to exceed ten thousand dollars (\$10,000.00), which fine shall be deposited in the general fund of the city. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision or any other phase of such game. No individual, corporation, partnership or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of said game. (Ord. No. 598, § 1, 2-28-77; Ord. No. 732, 4-9-85)

ARTICLE V. ADULT ENTERTAINMENT FACILITIES

Sec. 4-74. Purpose.

In adopting this article, it is recognized that certain types of adult entertainment facilities possess certain objectionable operational characteristics which when concentrated can have a deleterious effect upon adjacent areas. It is also recognized that locating the adult entertainment facilities covered by this particle in the vicinity of facilities frequented by minors will cause the exposure of minors to adult material which, because of their immaturity, may adversely affect them. In addition, it is recognized that many persons are offended by the public display of certain sexual material. Special regulation of these uses is necessary to ensure

that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood and to an adverse effect on minors. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-75. Definitions.

As used in this article, the following terms shall have the following meanings:

(a) Specified sexual activities means:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- (3) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- (5) Masochism, erotic or sexually oriented torture, beating or in the infliction of pain; or
- (6) Erotic or lewd touching, fondling or other contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation; or
- (8) Any combination of the above items (1) through (7).

(b) Specified anatomical areas means:

- (1) Less than completely and opaquely covered:
 - a. Human genitals;
 - b. Human buttock;

c. Human female breast below a point immediately above the top of the areola; and

(2) Human male genitals in discernibly turgid state, even if completely and opaquely covered.

(c) *Adult entertainment activity* means any commercial activity, whether conducted intermittently or full time, which primarily involves the sale, display, exhibition or viewing of books, magazines, films, photographs or other materials, distinguished or characterized by an emphasis on matter depicting, describing or relating to human sex acts, or by an emphasis on male or female genitals, buttocks or female breasts.

(d) *Adult newsrack* means any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

(e) *Adult bookstore* means an establishment having as a substantial or significant portion of its stock-in-trade, books, magazines and other periodicals, video tapes or tape cassettes which are substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

(f) *Adult motion picture theater* means a building or portion thereof, or area, whether open or enclosed, used for presenting material in the form of motion picture film, video tape or other means which is substantially devoted to the depiction of specified sexual activities or specified anatomical areas for observation by persons therein.

(g) *Adult hotel or motel* means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(h) *Adult motion picture arcade* means any place to which the public is permitted or invited wherein admission is charged and/or coin- or slug-operated or electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time; and where the images so displayed

are distinguished or characterized by an emphasis on depicting or describing specified sexual activities of specified anatomical areas.

(i) *Cabaret* means a nightclub, theater or other establishment which features live performances by topless and/or dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities of specified anatomical areas.

(j) *Massage establishment* means any establishment other than the office of any duly licensed practitioner of the healing arts regulated by division 2 of the California Business and Professions Code, and/or chapter 13, articles I through III of this Code, where, for any form or consideration or gratuity, massage, alcohol rub, administration of formentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs.

(k) *Sexual encounter centers* means any business, agency or person who, for any form of consideration or gratuity, provides a place where two (2) or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-76. Location of adult entertainment facilities.

(1) No adult entertainment activity shall be located within, nor closer than three hundred (300) feet to, the boundary of any residential zone.

(2) No adult entertainment activity shall be closer than one thousand (1,000) feet, measured along the right-of-way of public streets, to any other adult entertainment facility.

(3) No adult entertainment activity shall be closer than one thousand (1,000) feet from any public school or church in the city. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-77. Applicability to zoning.

Each such facility must comply with all applicable regulations of the applicable zon-

ing district in which the use is located. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-78. Use permit required.

(a) Each such facility must, prior to commencement or continuation of business if an established use at the effective date of this article [May 8, 1980], first apply for and receive from the planning commission a conditional use permit, as provided in section 11 of the zoning ordinance. If such permit is granted, it shall be granted upon such conditions as are necessary to protect the public health, safety and welfare. Any party aggrieved by a decision of the planning commission on an application for such a use permit shall have the right to appeal such decision to the city council, provided that notice of such appeal is filed with the city clerk within ten (10) days following the decision from which the appeal is made.

(b) Materials offered for sale from news-racks shall not be displayed in any manner which exposes to public view photographs or illustrations of specified sexual activities or of naked adults in poses which emphasize or direct viewers to the subject's genitals.

(c) No adult entertainment facility shall display or exhibit any material in a manner which exposes to the public view photographs or illustrations of sexual activities or naked adults in poses which emphasize or direct the viewer's attention to the subject's genitals. As used herein, "exposed to public view" means exposes to the view of persons outside the building in which said adult entertainment facility is located. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-79. Nonconforming uses.

Any adult entertainment facility which is in existence and actively in business on the date that these regulations become effective [May 8, 1980] shall be deemed a nonconforming use. Such a nonconforming use shall be permitted to continue for a period not to exceed eighteen (18) months, unless sooner terminated for any reason whatever, or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming use

shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-80. Violation a nuisance.

Every violation of the regulations contained in this article shall constitute and is hereby declared to be a public nuisance, which may be abated pursuant to the provisions of section 731 of the Code of Civil Procedure of the State of California. The total cost of abatement shall be made a special assessment against the interest, if any, in the parcel of land upon which such nuisance is maintained, had or possessed by the person determined in such judicial proceeding to be responsible for the operation and maintenance of such nuisance. Upon a judicial determination in a civil action under state Civil Code section 3494 or Code of Civil Procedure section 731 that a public nuisance did exist, such cost of abatement shall, by special ordinance, be made a lien against such property and a personal obligation against the person responsible for the operation and maintenance of such nuisance and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment. This remedy is in addition to any other remedy provided by law. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-81. Penalty.

Notwithstanding any other provision of this article, any person who violates this article shall be guilty of a misdemeanor and may be punished as follows:

- (a) By imprisonment in the county jail not to exceed six (6) months; or
- (b) A fine not exceeding five hundred dollars (\$500.00). (Ord. No. 673, § 1, 4-8-80)